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ABSTRACT

An analysis of the experiences of two states perceived as school choice innovators, Iowa and Nebraska, is presented in this paper. Three problem areas contributed to uncertainty are identified: classroom capacity, transportation, and funding. Recommendations include: limited parental choice; establishing enrollment loss ceilings; clear governance statutes; equal interdistrict costs; equal access for handicapped and minority groups; recruiting restrictions; gradual implementation; definition of parental expectations; and consideration of capacity. Educational quality is advocated over political expediency and efficiency. (25 references) (LMI)

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INTRODUCTION

For more than a century, the assignment of students to a particular school has largely been determined by family residential placement within a grid of public school district organizations. There were, of course, variations upon this theme. For example, people sometimes moved and wanted their child to continue in a particular school. There have been outstanding programs in schools that attracted parents and children, and disputes have sometimes arisen regarding attendance eligibility. There have also been cases in which parents attempted to escape a school that seemed an unsatisfactory assignment for their child. Occasionally, dissatisfaction with a school or even a school district has led to litigation in the courts.

During this same time, and largely through judicial interpretations of control and responsibility, it became clear that local public school districts were really functions of the state. The operation of public school districts has been judicially defined as a delegated function of state government (*Kosmicki v. Kowalski*, 1969). Still, people continue to

see schools as an organ of local government even though the state legislature has power to alter the delivery of educational services. Despite research supporting the potential for educational improvements via restructuring of districts, state legislatures have generally shied away from vigorous exercise of that power. There have been major school district reorganization efforts within some rural states and some racial desegregation -- most often, court ordered -- within urban areas. These efforts were frequently accompanied by intense agitation upon unhappy constituents, and legislators have since focused their attention upon less politically volatile issues.

Then came the latter 1980s and the notion of choice in school assignment, an idea that seemed politically acceptable and economically neutral. The matter of choice was embraced by the two most recent Presidents, the U.S. Department of Education, and legislators and governors of several states. The desirability of choice has been included in the recent Gallup Polls of the Public's Attitude Toward the Public Schools, and a strong majority of parents approve of the idea.

Several state legislatures have now acted, passing a form of choice legislation, sometimes called open enrollment. It is likely to take several years for the new relationships between residency of a student, options of choice by parents regarding where that child will attend school, and the vitality of a local school to emerge.

What has become clear at the beginning of the century's last decade is that a very fundamental change in the opportunities of attendance in public schools has come upon the American educational scene. It is unlikely that school districts will continue to rely upon simple patterns of residence to gage their academic viability and their financial health. Quickly, over

twenty states passed some kind of choice legislation with variations among the states. From among the nation's approximately 15,000 public school districts where there has been a long-standing importance attached to district boundary lines, those boundaries in the several affected states have receded in importance. Parental residence may not be the key factor in deciding the place of attendance. In what sometimes has been described as a national climate of dissatisfaction with schools, in which effectiveness has been seriously questioned, politicians have embraced the notion that competition among schools has the potential to solve many of the perceived ills. The concept is simple. Schools with a strong market focus based upon sound programs would fashion themselves into beacons of excellence and attract concerned parents. Ineffective schools would disappear for lack of customers. It sounds like a stabilized solution to questions of excellence. Further supporting this scheme was a truly magical carrot -- improvement at no additional cost!

Governors have become active in educational matters, an area that they ignored for decades. Recent meetings of the National Governor's Association have devoted substantial attention to matters of educational excellence. The President even called a national meeting of the nation's governors, only the third time for such a convening in American history; and, this time, with schools as their topic. This newly kindled interest by governors and state legislators is creating a major power shift in American education. Big changes are being developed from the state house rather than at the local levels, away from the instructional sites.

Considered broadly, choice is a social concept that is deeply embedded in American culture. It has a prominent place in the Constitution, especially in the amendments comprising the Bill of Rights; it has found

additional legal protection in numerous statutes, both state and federal. In the economy, it plays a prominent part as American consumers select from among alternatives that are available. Whether it is successful or not in American marriages, it is still true that Americans pick their own mates -- no arranged marriages in the general population. And, for those marriages that are dissolved, at least one member of the partnership had to make that choice.

Exercising a fundamental liberty -- a legal component of the American scene -- citizens may move about at will, locating in places that they select as opposed to being assigned a place to live. All of that is true in a relative sense, because there are always limitations on every freedom, some of them being economic. Some choices reflect nothing more than ignorance; e.g., a person might choose to be in some other place if he/she but knew of the wonderful things that would be available there, adding to the enjoyment of life. Choice has limitations; however, for most citizens who are given opportunities for choosing, that privilege is exercised on the side of some perceived advantage. This is true when picking friends, when buying goods, or when selecting an education for a child.

In the history of American education, some choice has always existed for parents, with the two biggest factors in choice being location of residence and economic well being of each individual family. With the emergence of twentieth century American public education as a monopolistic enterprise, parents could relocate their residence, and/or choose a private school for their child, paying the tuition costs levied by the private school. Entering the last decade of the century, a new wind has come upon education with the idea that choice could be opened to all, without regard to residence in any state, crossing district boundaries and at no

additional cost. The implication has been made plain by politicians at all levels: i.e., you can have something better for your children and at no added cost. Not only have many politicians seen this as an idea to promote, but it has also caught the attention of many individuals who have a long standing advocacy for education as a competitive enterprise, paid for by some voucher, tuition rebate, or tax exemption system.

One restraint on the concept has been the concern that no system of choice for place of attendance in school seems clearly harmonious with the nation's drive for equity and for social harmony within a multicultural society. That is, in any kind of international comparison, contemporary America comes off as one of the most heterogeneous societies, and depriving children of any chance for acquaintance with unlike Americans can hardly be advocated as a probable solution to that American dilemma so emphatically spoken of by Myrdal at the midpoint of the century.

Evidence makes it clear that racial minorities comprise the largest proportion of the at-risk and drop-out groups; however, there is no evidence that the educational demographics-technology collision which is so adversely affecting minority American males is going to be enhanced by extending choices when educational resources have not been enhanced. How educational choice can advance the human capital of the nation is an untreated theme within the advocacy for its implementation. Nonetheless, with all of its limitations, choice or open enrollment has a sweeping attractiveness. Reflecting its base in state statutes, it is a topic that must be addressed in all programs for the preparation of educational administrators.

A few states are now engaging in the first steps in implementation and operation of choice laws. Minnesota, the apparent state leader in the

"choice movement," has had enough experience to also pass amendments to the original legislation. Nearby, Iowa and Nebraska have adopted their own versions of choice. Several other states are now moving ahead, slowly structuring committees to advise on the writing of operational regulations prior to full implementation.

This is a paper of description and analysis as background to critical observations and recommendations. It will be focused on the experiences of two states involved as "pioneers" in school choice, Iowa and Nebraska.

DISCUSSION

Both Iowa and Nebraska enacted first legislation that spoke to choice of schools in 1989. After discussion, reconsideration, and legislative hearings, both states enacted modifications in 1990. Both states are now in readiness for first phases of implementation in the 1990-91 school year.

There is a twentieth century heritage for the concept of school choice, existing in the literature of education and in two attempts at implementation in the 1970s. In 1973-74 the Alum Rock (CA) Public Schools implemented a within-district choice plan which depended on a voucher issued to parents who wanted to make a choice beyond their neighborhood attendance area. The Sequoia Institute, a private non-profit corporation, contracted with the Alum Rock Union School District to administer the plan. Funding for the plan and for the administration of it was from the National Institute of Education, and about 1,000 students chose to attend non-neighborhood schools. The director of the program reported improved cognitive achievement among those participants (Levin, 1974). However, an outside agency report, done by the Rand Corporation (1974), is clearly to the contrary. That study dealt with the single question, "Did voucher

programs as a whole tend to raise or lower the average achievement score in a grade?" One Rand researcher found that "every voucher school in every grade but one dropped in achievement, while the non-voucher schools remained the same." Another Rand researcher was not quite so gloomy, concluding only that the voucher demonstration "had little or no effect, positive or negative, on academic achievement."

The voucher provided in-district choices as 13 schools participated, with the federal money paying for all of the "extra" costs of implementation; e.g., transportation at no cost to parents or district to non-neighborhood schools. When that funding stopped at the end of the second year, the program stopped.

In a somewhat comparable event, and in anticipation of federal support, the state of New Hampshire developed readiness for a statewide voucher program (1973). Motivated by the enthusiastic support of (then) Governor Meldrim Thompson, Jr., a proposal to do a feasibility study in seven school districts was sent to the Department of Health, Education and Welfare in November, 1973. Seeking \$90,000 of federal funding, the proposal described a free choice demand and supply model, operated through a parent voucher system which would be piloted and analyzed. Because selected private schools were to be a part of the pilot, the proposal carried an extended analysis of court actions in the church-state arena. Never funded, the proposal was never implemented.

Although usually not understood by the general public as choices among schools, educational innovations of various kinds were tried in the 1960s and 1970s. To the extent that specific public school districts allowed/encouraged parents to make choices within districts, some parents could choose schools that offered nongradedness, team teaching, schools-

within-schools, open space philosophy and various specialized grouping plans (Martin and Pavan, 1976). In this paper there is no need to attempt at definitions of choice because the point of this discussion is only to demonstrate that in some places, some choices in schooling have long been available to some parents as boards have provided for flexibility in pupil assignment, and, that legislative interest in the topic of choice is high.

Several models for school reforms centered upon free market, free choice, with voucher and tuition rebate characteristics (Havighurst, 1970). Education critics and observers, including Friedman,Sizer, Whitten, Levin, Raywid, Coleman and Jencks have spoken on the issue of choice, each contributing different information about it. On different occasions, the Office of Economic Opportunity has considered establishing some voucher programs. From a long and strongly stated advocacy for vouchers, Coons and Sugarman are now backing a novel lawsuit in Kansas City (MO) which would provide financing through vouchers for black schoolchildren to attend any desegregated private school in that metropolitan area (Education Week, 1989).

The Colorado legislature has mandated open enrollment within each public school district and provided for a cross-district pilot among three districts (Education Week, 1990). The Illinois Board of Education has recommended that in the complex reorganization of the Chicago Public Schools, parental choice -- which is required -- be initiated by way of planning at each local school site (Education Week, 1990). Lawmakers have an obviously strong interest in creating new conditions of choice for citizens. In fact, the legislative action is so fast that it is difficult for conventional data-gathering agencies to keep up, and in April 20, 1990, the AASA Leadership News identified 13 states as having enacted choice

legislation. However, Nathan (1989) identified 17 states that had choice plans, defined as opportunities for choice outside the school district of residence and in which all or part of the transfer cost was borne by some governmental unit. Some reports stipulate that 20 states now offer choice plans; nationally, then, legislatures are interested and active.

At the same time that there is strong promotional activity among the states' governmental units, professional educators are less favorable in their views about choice or open enrollment. The Association for Supervision and Curriculum Development (1990), by way of its policy study committee, issued a very reserved statement on choice, saying in part that "The political rhetoric is running far ahead of the evidence (of effectiveness)." Addressing interdistrict choice in the main, the panel suggested that a basic assumption made by most advocates of choice, i.e., increased competition among schools will increase student learning, may be badly flawed. Scott Thomson, (then) executive director of the National Association of Secondary School Principals (1989), spoke about what he called education El Dorados, mentioning restructuring, empowerment, and renewal as panaceas that preceded choice. And, like choice, he saw them as ill-defined terms, not well understood and lacking in any level of uniformity, and without adequate research support. He caustically suggested that "Choice plans, it seems, will bring public schools out of the wilderness to the promised land of sensational teacher, enthralled students, committed parents and beautiful prom queens." At least one superintendent, Lewis Finch, (1989) has related some of the Minnesota experience with data gathered from his own, and from other Minnesota school districts. Minnesota has gained some fame as the state generally acknowledged to be in the forefront, implementing several aspects of choice

or open enrollment. Speaking of what he called "the great American passion for quick, cheap remedies to complex problems" he acknowledged the populist heritage and some of the political advantages of choice. In what he termed the unrestricted choice characterizing the Minnesota plan, he saw the essence of educational Darwinism -- the survival of the fittest; and, that may not mean the fittest, educationally. In competitive situations, what is cheap is also attractive. Pointing out that the great majority of requests for transfer do not bear upon academic quality, but do bear upon convenience and location, Finch stated that "Minnesota offers citizens choice in lieu of adequate, equitable funding for public schools." Further, he predicted that this model is but prelude to advocacy for public funds for private schools, an extended choice. If true, it would seem that Minnesota is approaching a willingness to consider policy that has been determined in the past by judicial interpretation of the Constitution (*Lemon v. Kurtzman*, 1971).

The clash between educators and legislators is clear. Some policy makers have backed away, and that includes Governor Tommy Thompson (1990) of Wisconsin who, in his State speech to legislators conspicuously omitted any reference to school choice; however, that omission, which represented a reversal of position was a vacillation -- and may change, again. Only a few months earlier, Grover (1989), Wisconsin's State Superintendent, had observed that choice was a kind of "glitzy, quick-fix remedy." He raised the pivotal question, "When critically examined as a school improvement tool, can it be said that parental choice works?"

School choice is a timely topic. Vehemently advocated by some and viewed with equally high skepticism by others, what does the future hold for open enrollment or choice? What form of pupil registration or

assignment holds most promise? Will the evidence be generated from educational research or from political and economic circumstances?

IMPLEMENTATION: IOWA AND NEBRASKA

In order to address aspects of implementation, some understanding of the substance, the variations, and the politics of parental interdistrict choice of schools for their children was necessary. That background was supplied in the discussion, above. This description of selected events within implementation will be limited to the experiences and conditions in two states, Nebraska and Iowa.

Iowa and Nebraska have been selected for the source material from which to describe the implementation of choice or open enrollment plans. In 1989, the Nebraska unicameral legislature passed Legislative Bill 183, commonly referred to as the School Choice Bill. It was signed by the governor, endorsed by the State Board of Education and a new SBE rule was developed to assist in its implementation.

The bill described conditions under which interdistrict school choices could be made. It did not alter the power of local boards that govern public schools for the assignment of pupils to specific schools with each district. Definitions and closing dates for transfer applications were provided, for both the releasing (the resident) district and the receiving (the option) district. Suggested reasons for choice were provided, but only as exemplary. The bill provided a calendar for implementation, with every school district mandated into the program by 1993-94 and a calendar for applications and decision on application. The bill allowed districts to refuse applications by students who wanted in, but only for a very few

specific reasons; e.g., court ordered desegregation program balances and lack of capacity to add new students. The bill also provided directives on transportation and finance, with the latter amount to be at about half of typical per pupil costs. It provided for one-time choice, only.

By January 1, 1990, The Nebraska Department of Education expected to have over 300 applications for transfer in hand for the 1990-91 school year, and that was the application deadline. The statute's calendar allowed one month for the resident (home) district to agree to the transfer. With that agreement, the option (receiving) district had two months to accept the transfer. An Omaha World-Herald news story reported that in the Omaha area, two districts had voted (board action) to allow students to either leave or enter under the choice program, four had voted to allow students to leave only, and 12 had voted not to participate in the first year (1990).

A newspaper poll was conducted in December 1989 asking 615 adult Nebraskans this question: "A new state law will allow parents to send their children to any public school district they choose if the chosen district has room to accept the students. Do you favor or oppose this open-enrollment or parental-choice law?" Responding, 65 per cent favored it; 28 per cent opposed it; 6 per cent had no opinion. In comparison, The Nebraska Association of School Boards did a partial membership survey and found that 120 districts with 140,000 students would not participate; that 58 districts with 26,500 students would participate; that 4 districts with 26,500 students would allow transfers out, but not in (1990). What was popular with the general population of Nebraska obviously lacked for popularity with local public school boards.

Boards were leery of the statute because of its indefiniteness,

ambiguities, and financing. For example, transportation could not be offered as inducement to transfer, but had to be provided from the place where an incoming student crossed the student line. Districts could not advertise or entice, but had to "make information about the district, schools, programs, policies, and procedures available to all interested people" (L.B. 183, Sec. 10). Capacity could be a basis for refusal for incoming applications. Financial support would be at a level of about one-half (or less) of the real per pupil cost for most districts.

A longer list of examples of uncertainty could be developed; however, this brief analysis will focus on three problem areas: capacity, transportation, and funding. There is no uniformity in Nebraska in the provision of classroom space for each registered student. Variations among districts in pupil:teacher ratios are common. Consider a simple scenario: A district sets pupil:teacher ratios in policy as a goal. It is a guide to personnel deployment; however, reports may reveal that in some schools or some grades, those ratios must be (temporarily) exceeded as a practical aspect of personnel management. Could it use that condition to refuse a transfer application, even though in other grades or schools that ratio had not been exceeded? Or, if its ratio policy was being exceeded, could it encourage parents to consider transferring their children to another district? Or, is there any relationship at all between pupil:teacher ratio and capacity? Should each district define capacity in its own way?

In analyzing this, or any other aspect of uncertainty, two general conditions have come to bear in the minds of school administrators and board members.

1. L.B. 183 provides for a system of appeals from any denied application, and appeals demand resources.

2. Nebraska has six different classifications for its 950 public school districts, and what might fit one class would not necessarily fit another.

L.B. 183 disallows transportation service across district lines. That is, if District A wanted some students in District B to transfer, it could not entice that transfer with a promise of transportation from the student's residence. However, for every student transferring from District B, District A would have to provide transportation within its own district, a condition that would very likely call for some new routing and timing of buses. Federal law calls for complete transportation of special education students. If a pupil transportation vehicle cannot cross district lines, how is that law to be satisfied? Is the Nebraska statute an intentional attempt to exclude special education students from inter-district choice?

Initially, the funding of L.B. 183 was set at a range from \$686 going to the option district for each transferring kindergarten child, to \$1,921 for each transferring high school student. For those districts with per pupil costs at such levels as \$5,000 or \$4,000 or even less, the cost differences were too obvious for local boards of education to ignore. How could those local boards report that information to their patrons? In addition, that money support for transfers was to be paid by the resident district to the option district, a condition that might not contribute to congeniality. The 1990 legislature's amendments to L.B. 183, Legislative Bill 843, addressed several problems, and did attend funding. Under the new arrangement, \$1,000,000 in new state funds were appropriated to provide funding in a formula that attended accounting-reporting aspects and provided for equalization; but, the statute also declared the money from

state funds would be paid on the basis of the preceding year's statewide average per pupil cost, or the receiving district's per pupil cost, whichever is less, to the receiving district for every option student accepted. It was in this amended condition, then, that the Nebraska Department of Education was able to report on April 6, 1990 firm data, stating that there were 281 applications for transfer that were fully approved (NASB, 1990).

On the Iowa side of the Missouri River, the 1989 legislature amended and then passed Senate File 59, the bill which provided for open enrollment in the state's 436 K-12 school districts. That bill was advocated by William Lepley, Director (Commissioner), Department of Education, in prepared statements before the Iowa House Education Committee on February 9, 1989. Lepley pointed out that the long established concept that residents of a single public school district should have no access to programs in some other school districts was being reexamined, nationally. He favored approaching the concept from the vantage point of parent choice, rather than to continue using the term, open enrollment. He observed that a reduction in monopoly should have a positively stimulating effect, but in that same setting cautioned the legislators against a too specific bill and against naive expectations that such a program of radical change could be up and operational within a year. His arguments were persuasive, providing time for the Iowa Department of Education to develop its set of rules, Chapter 17, for implementation of the statute. That rule, beginning with definitions of terms, covers 20 major concerns in the operation of the program (1989).

Like Nebraska, the initial implementation of the Iowa statute will commence with the movement of some students in the 1990-91 school year.

Unlike Nebraska, the Iowa statute follows a predecessor action of 1985 which provided for student movement between contiguous districts for purposes of enhanced educational quality. Like Nebraska, the 1990 legislature amended S.F. 59 upon reconsideration, and among the changes, made it easier for parents to file their requests for change (Dispatch, 1990).

The IDE reported that about 1,000 students will change the school district in which they attend school, Fall 1990. This represents less than one-third of 1 per cent of Iowa's K-12 schoolchildren. On April 1, 1990, the IDE had received 1,674 applications, 190 of which had been denied by one of the affected districts. Grades K-9 received 87 per cent of the applicants; grades 10-12 received 11 per cent; 2 per cent did not indicate a grade. Five public school districts are not involved in the 1990-91 enrollment plan because of racial desegregation obligations. Under statutes, the IDE will do periodical studies as a part of its three year obligation to the legislature for status reporting on open enrollment (Dispatch, 1990).

CONCLUSION AND RECOMMENDATIONS

There appears to be a dynamic driving the politically popular concept of open enrollment in the public schools. It may be that parents see it as empowerment; advocates say that choice will provide improvement in educational opportunities at no additional cost. The creation of structures in which choice is allowed are varied in several states. Some are only suggestions; some are being tried. Choice is a radical change, a departure from some of the structures of American public schools as those have been generally understood since Civil War times. Some particular

features of the adequacy of those laws can be derived from examination, and other features will inevitably emerge from analyzing early implementation of the laws.

From existing data, policy makers need to attend a short list of imperatives as statutes and amendments are considered. A list of ten imperatives are recommended as fundamental.

1. Parental choice should be limited lest those choices become whimsical and arbitrary. One way to limit choice is to restrict the number; e.g., parents could make one choice for interdistrict transfer in the K-12 career of the child. Another way is to force the term; e.g., parental choice could be a commitment for a specific number of years, say 3-4 years, in the K-12 career of that child.
2. Enrollment loss ceilings must be enforced lest some districts lose students so quickly that resident education quality will drop. One way to limitation is to establish an annual maximum percentage of student loss, say 5 per cent, and couple that to a total of, say, 15-20 per cent over five years.
3. With the nation's commitment to cultural diversity, choice and assignment must harmonize with the intention of racial integration. A special caution is necessary here, lest choice turn into a device for the accomplishment of either segregation or separation.
4. Statutes must be clear on matters of governance, and local obligations and control should be maintained in the established pattern of school districts. That is, students who are residents and those transferring in, should be educated under the policies and guidelines of the host board of education, without reference to the rules and regulations in the place from which transfer students came.
5. Costs of inter-district choices must be neutralized. Neither the sending nor receiving school district should gain or lose money as a result of parental choice.
6. Provisions for handicapped children must be in harmony with all federal statutes that address handicapping and disabilities. These provisions must address transportation, facilities, appropriate curriculum, assignment, and qualified personnel. Transfers should not be accomplished with the intention of leaving an adequate program while forcing the creation of a new (and also adequate) program.
7. Recruitment of talented students, to be lured from one district to another, must be prevented. Appropriate restrictions on

advertising and personal visits apply here, as well as restrictions on eligibility into interscholastic activities. The restrictions should be sufficient to discourage or disallow transfers for those reasons, alone.

8. To remove residence as one qualification for attendance in public schools that have no charge for attendance is a radical change. Radical changes take time for accomplishment. Choice is a radical change, with only meager experience about its effect upon such areas as parent support for schooling. Choice deserves a phase-in period, if not a pilot period, and that phase-in period with analysis and status reporting might easily be 4-5 years in length.
9. The open enrollment exit and entry application forms and procedures should be well designed and easily operated by all concerned, but demanding a clear statement on the educational advantages that the parent expects to emerge from the transfer.
10. Space, which really includes facilities, equipment, and personnel, must be considered. The primary obligations of a local education agency is to the children of its own residents. That mission and obligation must be protected from both overload and desertion.

Although other lists and other items might be recommended as imperatives for laws on open enrollment, this set of ten is harmonious with the analysis provided in this paper. Each of the ten will stand tests for common sense and administrability. This set of ten is sufficiently durable to bear scrutiny for the skeletal parts of any state legislature that may, in the future, consider enacting such statutes. At the same time, it is only fair to make explicit an intentional bias: This analysis and these recommended imperatives favor educational quality over political expedience and efficiency. That bias rests on the premise that schoolchildren deserve first consideration from state legislatures.

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